



**MINUTES OF THE MEETING OF  
EAST LOTHIAN LICENSING BOARD**

**THURSDAY 28 JANUARY 2016  
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

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**Board Members Present:**

Councillor J Goodfellow (Convenor)  
Councillor S Akhtar  
Councillor S Currie  
Councillor D Grant  
Councillor W Innes  
Councillor F McAllister

**Clerk of the Licensing Board:**

Mrs K MacNeill

**Attending:**

Mrs M Ferguson, Service Manager, Legal and Procurement  
Mr R Fruzynski, Licensing Standards Officer  
Mrs D Elworthy, Licensing Admin Officer  
PC H Bowsher, Police Scotland  
Insp A Harborow, Police Scotland

**Committee Clerk:**

Ms J Totney, Team Manager – Democratic Services

**Apologies:**

Councillor T Trotter

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL**

The minutes of the Licensing Board meeting of 26 November 2015 were agreed to be a true record.

## **2. APPLICATION FOR PREMISES LICENCE**

### **Dunbar Garden Centre, Spott Road, Dunbar**

Mr N Crabbie, Managing Director, was present. No objections had been received in respect of this application. There were no further comments from the Licensing Standards Officer (LSO).

The Clerk advised that Police Scotland has requested that outside drinking is terminated at 22.00 hours due to the proximity to residential properties. Mr Crabbie advised that he is agreeable to this terminal hour.

Mr Crabbie explained that, if licensed, the premises would be able to provide an enhanced offering, such as the sale of local wines and spirits.

Councillor Innes stated that the application has been well thought out.

Councillor Currie commented that granting a licence would bring the premises in line with other garden centres.

### **Decision**

East Lothian Licensing Board unanimously agreed to grant a premises licence.

## **3. VARIATION TO PREMISES LICENCE**

### **Co- Operative Group Food Ltd, Main Street, Ormiston**

Mr A MacDonald, MacDonald Licensing, was present to represent the applicant. Mr G Cranston, Area Manager, Co-Operative Group was also present.

The Clerk advised that the application seeks to increase the alcohol display area to 27.97m<sup>2</sup> and to add recorded music as an activity.

No objections or representations had been received in respect of this application.

Mr MacDonald explained that there had been an error in the previous operating plan. This application seeks to rectify the error regarding the alcohol display area, which has been in place for some time following a store refit. Mr Cranston advised that the recorded music is Co-Op radio. The Clerk advised that recorded music had in fact been included in a previous licence application.

The LSO advised that he has no concerns about the layout which is currently in place.

Police Scotland had nothing further to add.

Councillor Grant mentioned that the premises are will run and supported this retrospective application.

### **Decision**

East Lothian Licensing Board agreed to grant the variation to the premises licence.

#### **4. OCCASIONAL PREMISES LICENCE**

##### **PAN CONVENIENCE STORE, 5 HAWTHORNE ROAD, PRESTONPANS**

Ms J Hood, Licensing Practitioner, was present to represent the applicant. Mr A K Nadeem, applicant, was also present.

The Clerk advised that the Occasional Licence application seeks to cover the period 20 January 2016 to 2 February 2016 for the off sale provision of alcohol. She advised Board members that a series of occasional licences had been applied for and referred members to the objection from Police Scotland.

In relation to the objection from Police Scotland, Ms Hood advised members that she had recently provided information regarding the premises lease, due diligence documentation and company information regarding the ownership of the premises.

The Clerk confirmed that this had been received but had not been circulated.

Ms Hood provided very detailed background information regarding her client and his business concerns. In particular, she covered issues relating to ownership; leasing arrangements; and the transfer of the premises licence. She highlighted that the previous premises licence holder surrendered the licence although her client had been of the understanding that the premises licence would be transferred. The premises therefore currently have no licence, hence the application for an occasional licence.

Ms Hood also highlighted that there is a dispute between solicitors regarding the ownership of the property but that this is nothing to do with her client. With regard to the failed test purchase transactions detailed in the Police Scotland report, she explained that her client was not in charge of the premises/did not run the business on one of the occasions and outlined the robust measures that are now in place to ensure compliance with licensing objectives. Ms Hood requested that the Board grant the occasional licence pending an application for a full premises licence. She is not currently in a position to apply for a full premises licence as she awaits the section 50 certificates from the Council.

The LSO advised that he concurred with the views in the Police Scotland report.

Insp Harborow, spoke to the Police Scotland report and advised members that he wished to expand on the information presented in the report.

Ms Hood stated that the objections in the Police Scotland report do not relate to her client and that there is nothing in the report that relates to the suitability of the applicant to be a licence holder. She suggested that any information relating to her client should have been included when the report was prepared and not presented verbally at this meeting.

Councillor Goodfellow, Convenor, stated that it is important to have information relating to the credibility of the applicant as a suitable licence holder.

Inspector Harborow urged the Board to look at the information available on the applicant in its totality. He provided a very detailed account of his concerns which included the dispute over ownership of the premises; the findings from Police Scotland and LSO visits to the premises; a history of under-age alcohol sales; employing an illegal immigrant and test purchase failures.

The LSO provided expanded information regarding the irresponsible drinks promotions referred to in the Police Scotland report. He also advised members that there were issues regarding the identity of the Designated Premises Manager when he visited the premises in December 2015.

In response to Councillor Currie, PC Bowsher explained that she had spoken to Mr M Younis, the previous premises licence holder, a few days ago. As a result, she had a greater understanding of the current and previous business ownership and operating arrangements between Mr Younis; members of Mr Younis's family; and Mr Nadeem. She described Mr Nadeem as having been a sleeping partner in the business for two years.

Ms Hood stressed that the ownership of the building had nothing to do with the application for an occasional licence and stated that her client had made her aware about the previous test purchase failures. She asserted that these had happened a long time ago and reiterated the compliance measures that her client now has in place.

Inspector Harborow responded to questions from Board members regarding any recorded incidents at stores where the applicant had been the personal licence holder.

Ms Hood assured the Board that her client has a legitimate right to lease the premises.

The Board adjourned briefly to deliberate their decision in private.

Councillor Innes, Local Ward Member, stated that it was understandable that a series of occasional licences were being applied for, given the exceptional circumstances regarding the confusion around the ownership of the premises. He added that the Board would need to undertake a strict examination of any application for a [full] premises licence. However, based on the information available today, he would not oppose this application for an occasional licence.

Councillor Currie pointed out that Board decisions need to be made on balance. He concurred that there is a huge amount of confusion about the ownership/lease of the premises, which in his view adds a further element of doubt about granting the occasional licence. He therefore did not support this application.

Councillor Grant echoed the comments from Councillor Innes. While not comfortable with some of the information presented, he indicated, that on balance, he would support the application.

Councillor McAllister commented on the complicated set of circumstances, adding that he would have appreciated a written report from the LSO in the normal way. He remarked that he was very grateful for the expanded information provided by Insp Harborow and PC Bowsher. He expressed the view that he does not consider Mr Nadeem to be a fit and proper person to be granted this occasional licence.

However, Councillor Akhtar pointed out that the Board were not conducting a fit and proper person test. Although the situation is complicated, she supported the application.

Councillor Goodfellow reflected on Mr Nadeem's previous record of under-age alcohol sales and commented that it would not be good for the people of East Lothian if this occasional licence is granted. He stated that he would not be supporting the application. Councillor Goodfellow then pointed out that as three Board members

supported the application and three Board members were against granting the licence, it fell to him as Convenor of East Lothian Licensing Board to use his casting vote and that the occasional licence would not be granted.

The Clerk confirmed that a Statement of Reasons would be issued to Ms Hood.

### **Decision**

East Lothian Licensing Board agreed to refuse the application for an occasional licence.

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### **LICENSING DEPARTMENT CUSTOMER FEEDBACK**

Before closing the meeting, Councillor Goodfellow advised that there had recently been a stakeholder survey regarding the service delivered by East Lothian Council's Licensing Department. He congratulated the team warmly on the responses received which indicated that service users are extremely pleased with the service provided.